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DEC. 13 2006

CENTRAL REEXAMINATION UNIT

In re Application of	:
Roger Streets et al.	:
Application No. 10/664,052	: DECISION ACCEPTING
Filed: September 16, 2003	: SHOWING OF CAUSE
Attorney Docket No. AOI-73	:

This is a decision on applicant's response titled, Response To Order To Show Cause filed November 9, 2006, in response to the Second Order To Show Cause mailed October 26, 2006, in the above-identified reissue application (present reissue proceeding).

Applicant's renewed response is before the Director of the Office of Patent Legal Administration (OPLA) for consideration.

In view of the renewed response filed November 9, 2006, applicants have shown cause why the present reissue proceeding should not be terminated. Accordingly, jurisdiction over the present reissue proceeding is being returned to the Technology Center to continue examination thereof.

BACKGROUND

1. The present reissue proceeding was filed March 8, 2002, for reissue of U.S. Patent No. 6,305,143 (the '143 patent), which issued October 23, 2001.
2. On December 14, 2005, in the present reissue proceeding, the examiner issued a non-final office action. In response, on December 14, 2005, a reply was filed.
3. A review of the Office's financial records for the '143 patent revealed that the 3.5 year maintenance fee due and not paid could have been paid during the period from October 23, 2004 through April 25, 2005 (April 23, 2005 was a Saturday), or with a surcharge during the period from April 26, 2005 through October 24, 2005 (October 23, 2005 was a Sunday). As a result, the '143 patent expired after midnight on October 24, 2005, for failure to pay the 3.5 year maintenance fee due. See 1301 *Official Gazette* 87 (December 20, 2005).
4. On July 5, 2006, in the present reissue proceeding, an Order To Show Cause was mailed

stating that the '143 patent had expired for failure to pay the first maintenance fee, the Director of the USPTO no longer had the authority under 35 U.S.C. § 251 to reissue the '143 patent, and the Office intended to terminate the present reissue proceeding and hold the application for reissue of the '143 patent to be an abandoned application. Applicants were given a period of 30 DAYS from the mailing of the ORDER to show cause why the Office should not terminate the present reissue proceeding.

5. In response, on August 2, 2006, in the present reissue proceeding, a communication entitled Response To The Order To Show Cause was filed. Applicants requested that prosecution of the present reissue proceeding be continued based upon patent owner's filing on August 2, 2006, of the requisite maintenance fee and surcharge, along with a petition and fee to accept an unintentionally delayed payment of the maintenance fee.
6. On October 26, 2006, a Second Order To Show Cause was mailed dismissing applicants' request that the prosecution on the present reissue proceeding be continued, because the response to the show cause order of July 5, 2006 was not sufficient to provide basis for examination of the present reissue proceeding. The response to the show cause order of July 5, 2006 was, however, sufficient to the extent that the Office would not terminate the present reissue proceeding at that time. Applicants were provided with a period of SIX(6) MONTHS from the mailing of the Second Order To Show Cause to again show cause why the Office should not terminate the present reissue proceeding.
7. In response, on November 9, 2006, applicants filed the present Response To Order To Show Cause.

DECISION

Applicants request, in the November 9, 2006 response, that the present reissue proceeding not be terminated. In support of the request, a copy was filed of a Decision Granting Petition Under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the maintenance fee mailed October 27, 2006, stating that the first maintenance fee for the '143 patent was accepted. Thus, the '143 patent has not expired for failure to pay the first maintenance fee. As it has now been shown that the original '143 patent has not expired, consideration of the present reissue proceeding will be resumed. The present reissue proceeding will accordingly be forwarded to the examiner for further examination.

CONCLUSION

1. Applicants are deemed to have shown cause as to why the Office should not terminate the present reissue proceeding.
2. Consideration of the present reissue proceeding will be resumed.
3. Jurisdiction over the present reissue proceeding is being returned to Technology Center Art Unit 3634 for further examination, including consideration of the reply filed December 14, 2005, in due course.

4. Any further communications as to the merits of the present reissue proceeding should be directed to examiner Jerry Redman, in Technology Center Art Unit 3634, who can be reached at 571-272-6835.
5. Telephone inquiries related to this decision should be directed to Fred A. Silverberg, Senior Legal Advisor, at (571) 272-7719.

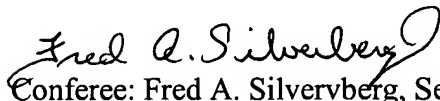


Kenneth M. Schor

Senior Legal Advisor

Office of Patent Legal Administration

Office of the Deputy Commissioner for Patent Examination Policy



Conferee: Fred A. Silverberg, Senior Legal Advisor